

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Yeong Jong SHIN

Serial No.: 09/960,359

Filed: 9/24/2001



Confirmation No.: 6347

Group Art Unit: 2688

Examiner: George Eng

Customer No.: 34610

For: METHOD AND SYSTEM FOR SETTING UP CALL IN CDMA MOBILE
COMMUNICATION SYSTEM

PRE-APPEAL BRIEF REQUEST FOR REVIEW

U.S. Patent and Trademark Office
Customer Service Window - **Mail Stop AF**
Randolph Building
401 Dulany Street
Alexandria, Virginia 22314

Sir:

Applicant requests review of the final rejection dated June 28, 2006. No amendments are being filed with this Request. This Request is being filed with a Notice of Appeal. The review is requested for the reasons stated below.

The Office Action rejects claims 21-25 and 28 under 35 U.S.C. §102(e) over U.S. Patent 6,317,609 to Alperovich et al. (hereafter Alperovich). The Office Action also rejects claims 1-17, 19-20, 27 and 29 under 35 U.S.C. §103(a) over Alperovich in view of U.S. Patent 6,061,566 to Friman. Still further, the Office Action rejects claim 18 under 35 U.S.C. §103(a) over Alperovich in view of Friman and further in view of U.S. Patent 6,493,553 to Rollender.

Independent claim 1 recites setting up a control path and transferring bearer information through the set up control path. Independent claim 1 also recites setting up a bearer path between the origination BSC and the termination BSC by using the bearer information. Still further, independent claim 1 recites transferring real time video data of at least one of the

origination side mobile station and the termination side mobile station between the origination BSC and the termination BSC through the set up bearer path without using traffic resources of the MSC.

The Office Action fails to provide references that teach or suggest all the features of independent claim 1 (and the other independent claims). Applicant further submits that Alperovich and Friman may not be simply combined as alleged in the Office Action. The Office Action also does not provide sufficient information regarding how Alperovich and Friman may be combined. Additionally, the Office Action attempts to modify Alperovich's system (FIG. 4) to include features of Friman. This proposed modification would destroy the express purpose of Alperovich. MPEP §2143.01 states that the proposed modification cannot change the principle of operation of a reference. However, the Office Action's proposed modification changes the principle of Alperovich's system and therefore the Office Action fails to make a *prima facie* case of obviousness.

Alperovich relates to a procedure for setting up a call connection by routing between MSCs of different networks. For example, Alperovich discloses transmitting a digital image 355 through the Internet 230 as well as setting up a call using a circuit switch connection 440 shown in FIG. 4 between MSC/VLR 14a and MSC/VLR 14b. See Alperovich's col. 5, line 58-col. 6, line 10. The Office Action states that real time video data is transferred through a set up bearer path (alleged to correspond to the circuit switch connection 440) without using traffic resources of MSC. The Office Action cites Alperovich's col. 3, lines 33-53. However, Alperovich clearly shows that the digital image 355 pass through the MSC/VLR 14a and that the circuit switch connection 440 is provided from the MSC/VLR 14a. Thus, Alperovich clearly does not teach

"transferring real time video data...through the set up bearer path without using traffic resources of the MSC" as recited in independent claim 1.

In discussing the claimed "transferring real time video data...through the set up bearer path without using traffic resources of the MSC," the Advisory Action (on page 3) states that paragraph [21] of the current application shows the necessity of the MSC to control calls of the origination BSC and termination BSC. However, paragraph [21] does not state these features as alleged. Further, independent claim 1 specifically recites without using traffic resources of the MSC. Independent claim 1 does not specifically recite the MSC to control the BSCs as appears to be alleged on page 3 of the Advisory Action. See, for example, FIG. 2 of the present application showing a solid line between BSC 36 and router 40 and between router 40 and BSC 37. See also paragraph [33] last sentence.

The Advisory Action (on page 3) references Friman's FIG. 2 as showing BSC 201 directly connected to BSC 202 by a communication link 21. The Advisory Action attempts to implement the technique of Friman within Alperovich's system without considering whether such a combination would possibly work. Friman's communication link 21 is provided to avoid routing calls through a MSC (and transcoder units TRCU) when two different base station systems are under control of one MSC. See Friman's col. 4, lines 9-19 and lines 52-56. This does not correspond with Alperovich's FIG. 4 and therefore the combination is improper. More specifically, Alperovich clearly relates to communication between BSCs under control of different MSC/VLRs. This clearly differs from Friman's two base station systems under the control of one MSC. Therefore, if Alperovich were modified based on Friman, then Friman's communication link 21, at best, would be coupled to Alperovich's BSC 23a. Thus, such a modification of Alperovich as alleged in the Office Action would expressly avoid Alperovich's

circuit switch connection 440 and transmission of digital image 355 through the Internet 230.

Therefore, the alleged modification based on Friman would destroy the express purpose of Alperovich including the features cited in the Office Action. For at least these reasons, the alleged combination is improper.

Further, Alperovich also does not teach or suggest a MSC controlling the originating and termination BSCs when a call is set up between an origination side mobile station and a termination side mobile station, as recited in independent claim 1. That is, Alperovich's MSC/VLR 14a does not control the BSC 23a and the BSC 23b when a call is set up between a calling MS 20a and a called MS 20b. Additionally, Alperovich's MSC/VLR 14b does not control the BSC 23a and the BSC 23b when a call is set up between a calling MS 20a and a called MS 20b.

Additionally, Alperovich (and Friman) do not teach or suggest "setting up a bearer path...by using the bearer information." The Office Action never addresses this specific feature. Alperovich does not suggest to set up a bearer path by using the bearer information (that is transferred between the origination BSC and the termination BSC through a set up control path).

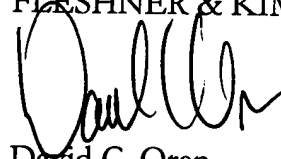
For at least the reasons set forth above, the applied references do not teach or suggest all the features of independent claim 1. Thus, independent claim 1 defines patentable subject matter.

Applicant respectfully submits that each of independent claims 14, 20 and 21 contain different features such that each of the independent claims stand or fall together. Accordingly, for at least similar reasons as set forth above, the applied references do not teach or suggest all the features of independent claims 14, 20 and 21. Thus, independent claims 14, 20 and 21 define patentable subject matter.

Each of the dependent claims depends from one of the independent claims and therefore defines patentable subject matter at least for this reason. In addition, the dependent claims recite features that further and independently distinguish over the applied references.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this, concurrent and future replies, including extension of time fees, to Deposit Account 16-0607 and please credit any excess fees to such deposit account.

Respectfully submitted,
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